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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 BRUCE L. FRANZEN,
9
10 Petitioner,

3:00-cv-0637-ECR-RAM

11 vs.

ORDER

12 E.K. McDANIEL, *et al.*,
13
14 Respondents.
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16 This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254,
17 by Bruce L. Franzen, a Nevada prisoner convicted of murder. Franzen's habeas corpus action is
18 before the court on the merits of the three remaining claims in Franzens first amended petition.

19 One of the claims to be resolved is Ground 3d of the first amended petition, a claim that
20 Franzen was denied his federal constitutional right to effective assistance of counsel on account of
21 his counsel's failure, at trial, to object to the admission into evidence of certain autopsy photographs.
22 *See* First Amended Petition (docket #17), p. 20.

23 In a minute order entered July 20, 2009 (docket #106), the court noted that the parties had not
24 provided the court with the three autopsy photos at issue, or with copies of other related trial
25 exhibits. The court stated that inspection of those materials would assist the court in resolving this
26 claim. The court, therefore, ordered that respondents were to supplement the record, pursuant to

1 Rule 7 of the Rules Governing Section 2254 Cases in the United States District Courts, by filing
2 copies of trial exhibits A-1 through A-20.

3 Respondents filed copies of the trial exhibits on July 29, 2009 (docket #107).

4 Then, pursuant to the minute order entered July 20, Franzen had time to file any objection to
5 the expansion of the record. Franzen filed an objection on July 30, 2009 (docket #108).

6 In his objection, Franzen points out that the copies of the trial exhibits filed by respondents
7 are black and white copies. *See* Exhibits filed July 29, 2009 (docket #107). Franzen argues that “the
8 gravamen of Mr. Franzen’s claim in Ground 3(d) is the prejudicial nature of the photographs and that
9 question can only be properly answered after a review of the photographs as they were presented to
10 the jury-in color.” Objection (docket #108), p. 2.

11 Franzen’s objection is well taken. The court determines that, in view of the nature of the
12 claim, color copies of the exhibits, better reflecting the way they appeared to the jury, would better
13 assist the court in resolving this claim. The court will require respondents to file such copies of trial
14 exhibits A1 through A20.

15 **IT IS THEREFORE ORDERED** that within **10 days** from the date of this order,
16 respondents shall file new copies of trial exhibits A-1 through A-20, which were admitted into
17 evidence at petitioner’s trial on September 20, 1983. The copies should be color copies, reflecting
18 reasonably well the exhibits as they appeared to the jury. Respondents should number those exhibits
19 beginning with Exhibit 334 (where the exhibits heretofore submitted by the parties leave off).
20 If respondents believe that it is not feasible to comply with this order, respondents should file a
21 notice explaining that.

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Dated this 31st day of July, 2009.

UNITED STATES DISTRICT JUDGE